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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 523

PEOPLE OF THE STATE OF ILLINOIS EX REL
MARY S. M. LOUGHRY,
Petitioner,

vs.

BOARD OF EDUCATION OF CITY OF CHICAGO,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

MARY S. M. LOUGHRY,
162 W. North Avenue,
Chicago 10, Illinois,
Petitioner.

INDEX

	PAGE
Conclusion	15
Jurisdiction	1
Opinions Below	1
Reasons for Granting the Writ	6
Question Presented	3
Statute Involved	4
Statement	4
Specification of Error to be Urged	6

CITATIONS.

Cases:

Almassy v. Los Angeles County Civil Service Commission, 210 P. (2d) 503 (Calif.) (1949)	9, 12, 13
Beefer v. Borrella, 9 N. J. Super. 287, 76 A. 2d 25 (1950)	14
Blumenthal v. Morton, 78 N.Y.S. (2d) 302 (1948)	12
Bridgman et al v. Kern, 13 N.Y.S. (2d) 249 (1939)	11
City of Sullivan v. Cloe, 277 Ill. 56 (1917)	14
Chambers v. Florida, 309 U. S. 227 (1940	20
Cohen v. Fields, 298 N.Y. 235 (1948)	11
Cowen et al v. Reavy, et al, 283 N.Y. 232, 28 N.E. 2d 340 (1940)	11
Farrell v. Kern, 17 N.Y.S. (2d) 934 (1940)	13
Foster et al v. People of State of Illinois, 332 U. S. 134, 67 S. Ct. 1716 (1947)	8
Fink v. Finegan, 270 N.Y. 356; 1 N.E. (2d) 462 (1936)	10
Flynn v. Board of Registration in Optometry, 320 Mass. 29, 67 N.E. (2d) 846 (1945)	7

PAGE

Gollin v. Watson, 102 N.Y.S. (2d) 935 (1951) 13

People v. Brown, 407 Ill. 565, 95 N.E. (2d) 888 (1950) 7

People v. Dugan, 401 Ill. 442; 82 N.E. (2d) 482 (1948) 8

People ex rel. Cook v. Board of Education, 295 Ill. App. 41 (1938) 14

People ex rel. Gallas v. Krupicka, 279 Ill. App. 269 (1935) 14

Sheridan v. Kern, 255 App. Div. 57; 5 N.Y.S. (2d) 336 (1938) 11

U. S. ex rel. Montgomery v. Ragen, 86 F. Supp. 382 (1949) 8

Wheeling Steel Corp. v. Glander, 337 U. S. 562, 69 S. Ct. 1291 (1949) 8

Statutes:

Constitution of the State of Illinois, Article II, Sections 1 and 2 4

Illinois Revised Statutes (Bar Edition, 1947) Chapter 122, Sections 34-86 and 34-87 ..... 4, 14

28 U. S. Section 1257 (3) 2

Books:

The Public and Its Government—Felix Frankfurter—New Haven—Yale University Press 21

"Directors Who Do Not Direct"—Wm. O. Douglas—Harvard Law Review XLVII-No. 8 (June 1934) 21

A Manual on Certification Requirements for School Personnel in the United States, p. 5, Table II, Federal Security Agency Office of Education Circular 290 (1951) 21

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

Mary S. M. Loughry, petitioner herein, prays that a writ of certiorari issue to review the judgment of the Supreme Court of the State of Illinois, entered in the above-entitled case on the 12th day of September 1951.

Opinions Below

This case was first heard in the Circuit Court of Cook County, State of Illinois, and the decision has not been reported; it was heard on Appeal in the Appellate Court of Illinois, First District, and is reported at 342 Ill. App. 610. Petitioner's Petition for Leave to Appeal was denied by the Supreme Court of Illinois and has not been reported.

Jurisdiction.

The Petition for Leave to Appeal to the Supreme Court of Illinois was denied September 12, 1951. An Order signed November 30, 1951 by Mr. Justice Minton extended

until January 10, 1952 the time for filing in this Court a petition for a writ of certiorari.

The jurisdiction of this Court is invoked under 28 U. S. C., Section 1257 (3).

Respondent Board of Education of the City of Chicago has refused to grant to petitioner a certificate as principal in the school system of Chicago. The constitutionality, under both the State and Federal Constitutions, of the Board's action in refusing to certify petitioner, and its methods and procedures in the conduct of examinations for principal were raised in the trial court and again in the appellate court by the following language:

1. "The petitioner therefore states that the relator has been unlawfully and illegally, and in violation of her constitutional rights, deprived of a place on the list of eligibles for appointment as a principal in the Chicago public school system, upon which the defendants Hunt, Clark, and Edwards were duty bound to place her, and has been deprived of a Certificate of Principal, which the defendant Board of Education was duty bound to issue to her." [Emphasis added] (Abstract of Records, p. 11, par. 36)

2. "To be sure the standards assailed as inadequate in the *Chicagoland Agencies* cases were those imposed by the legislature, whereas those involved here are standards, or rather the lack of them, embodied in the rules and regulations of an administrative agency. The same principles apply, however. See *Hamilton* v. *The Board of Regents of the University of California*, 293 U. S. 245 (1934). In both instances the basic question is the adequacy of standards and procedures, and ultimately, in our system of government, the test of adequacy is a constitutional one." [Emphasis added] (Petition for Leave to Appeal to the Supreme Court of Illinois, p. 23.)

Petitioner contends and has contended in the courts of the State of Illinois that she has been deprived of her rights to due process under the Fourteenth Amendment to the Constitution of the United States.

Question Presented.

The question presented is whether as petitioner contends, the effect of an Illinois Supreme Court decision in invalidating the merit system in the appointment of Chicago school teachers as provided by statute, is a violation of the due process clause of the Constitution of the United States in the case where:

1. A state legislature creates a board to examine applicants for certificates to teach in the public schools system; and

2. Such a board is directed to make appointments and promotions of teachers on the basis of "merit," and to issue certificates to applicants who satisfactorily pass a required test of character, scholarship and general fitness; and

3. Such a board, pursuant to no legislative authority delegates the conduct of oral examinations of applicants to a subordinate group of oral examiners; and

4. An oral examination is conducted by such group, in accord with no standards or norms, save the wholly subjective and uncontrolled opinions of the members of the examining group; and

5. Where no written record is kept of the oral examination, other than a numerical grade given applicants by each member of the examining group; and

6. Where no method of appeal or review is provided.

Statute Involved.

The pertinent statutory provisions are contained in Sections 1 and 2 of Article II of the Constitution of the State of Illinois and in Sections 34-86 and 34-87 of Chapter 122 of the Illinois Revised Statutes, 1947 Bar Edition. These Sections are set out as Appendix A to this petition, at page 17.

Statement.

Petitioner is and has been since 1912 a teacher in the Chicago public schools. She holds a bachelor's degree from Loyola University and a master's degree from the University of Chicago; she spent the calendar year 1940-1941 in residence at Columbia University occupied with advance study in the field of Educational Administration and Supervision, and working toward the degree of Doctor of Philosophy. Since 1935 she has served under four principals and from each has uniformly received the highest possible efficiency rating. Her education, experience and general qualifications were sufficient to permit her to take the examination for principal held pursuant to the direction of the Chicago Board of Education.

That examination, which petitioner took in late 1947 and early 1948 was divided into parts; the first, written; the second, oral. For appointment as principal, an applicant must, according to rules promulgated by the Board of Examiners, achieve an average grade of 80 on the two parts of the examination. Both oral and written portions are accorded equal weight, and petitioner received a grade in excess of 80 on the written examination, but was failed on the oral part; her average grade was below 80.

It is, of course, the oral portion of the principal's ex-

amination with which this petition is concerned. By regulation, the oral part consisted of

> "a personal oral interview where consideration will be given to the official scholastic record of the candidate previously filed with the Board of Education, his degree of success as a teacher in the Chicago public schools, his contribution to educational research, his record of leadership and cooperation in the school system and the community, poise and other personal factors."

The Board of Education of the City of Chicago, pursuant to statute, designated a board of examiners, consisting of three persons duly qualified. These examiners, under color of no statutory authority, redelgated the function of conducting oral examinations for principals to a panel of fifteen persons, which panel was divided into three groups of five members each. One group of five members conducted the oral examination of petitioner and others among the applicants for certificate as principal. The remaining two groups, composed also of five members each, conducted examinations of the remainder of the applicants. No applicant was examined by more than five members of the fifteen-member panel.

Petitioner's examination lasted between twenty and thirty minutes and consisted of several hypothetical questions propounded by the examiners. The text of these questions is set out in Appendix B to this petition at page 19. Different questions were asked by the several groups of examiners and no applicant was asked the same questions, nor even questions essentially similar to those asked any other applicant.

No record of any sort was kept of the oral examination of petitioner or of any other applicant, save an individual numerical grade assigned by each member of an exam-

ining group to each applicant interviewed. The median one of an applicant's five grades was used as the final grade for his oral examination.

Neither under the Illinois statute nor under regulations of the Board of Education was any appeal or review permitted of the oral examination, its method or its result.

No standards of any description had been set for evaluation of the relative merit of the various applicants, and accordingly, no means existed for the establishment of either a qualitative evaluation between applicants examined by one group of examiners, or between applicants examined by different groups of the panel of examiners.

Specification of Error to be Urged.

The Supreme Court of the State of Illinois erred in denying petitioner's Petition for Leave to Appeal. In so doing, it permitted to stand the decision of the Appellate Court of Illinois, First Circuit. That Court, in reversing the decision of the trial court, had held that the methods and procedures employed by the Chicago Board of Education for the examination of applicants for certificate as principal were not violative of the due process clause of the Fourteenth Amendment to the Constitution of the United States.

Reasons for Granting the Writ.

The decision of the Supreme Court of the State of Illinois should be reviewed because it has denied to this petitioner the full benefits of Chapter 122, Secs. 34-86 and 34-87 of the Illinois Revised Statutes of 1947. That statute sets forth a "merit" system for the promotion of teachers in the city of Chicago, the legal protection of

which was not extended to this petitioner. As a result the petitioner has been denied a property right without due process of the law as prescribed by the Fourteenth Amendment to the Constitution of the United States.

Further reason for granting the writ lies in the fact that in other jurisdictions similar cases have been coming up for trial in goodly number, and even in the petitioner's jurisdiction the question has come to trial earlier.

I. A Person's Profession is a Property Right.

The constitution of the State of Illinois in Article II, section 1 (Appendix A) declares that all men have certain inherent and inalienable rights, three of them being the right to life, the right to liberty and the right to pursue happiness. In section 2 of the same article (Appendix A) it is declared that none of the named rights, plus the right of property, shall be taken from a person except by due process of law.

In the recent case of *People* v. *Brown,* 407 Ill. 565, 95 N. E. 2d 888 (1950), the court states at p. 572:

> "A person's business, profession, trade, occupation, labor, and the avails from each constitute 'property' envisioned in two sections (referring to above-given sections of Illinois constitution). The right to follow any of those activities is 'liberty' as also envisioned therein."

Similarly, in *Flynn* v. *Board of Registration in Optometry,* 320 Mass. 29, 67 N. E. 2d 846 (1945), the court stated at page 850:

> "* * * the right to follow a legitimate calling is both liberty and property and is protected by the Constitution of the United States and that of this Commonwealth."

II. Due Process of Law is a Broad Concept, Not to be Confined to a Narrow, Formalistic Application.

Petitioner's claim that she was denied the full benefit of state legislation falls within the due process clause of the Fourteenth Amendment. As this Court stated in *Wheeling Steel Corp.* v. *Glander,* 337 U. S. 562, 69 S. Ct. 1291 (1949), at p. 1296:

> "The State action, which is reviewable under the Fourteenth Amendment, is the composite result of both legislation and its judicial interpretation * * *"

This broad concept is not new. The Supreme Court has repeatedly stated that:

> "'The 'due process of law, which the Fourteenth Amendment exacts from the States is a conception of fundamental justice (citations omitted). It is not satisfied by merely formal procedural correctness * * *'" (*Foster et al.* v. *People of State of Illinois,* 332 U. S. 134, 67 S. Ct. 1716 (1947); *Palko* v. *Connecticut,* 302 U. S. 319 (1937); and *Hebert* v. *Louisiana,* 272 U. S. 312 (1926).)

The United States District Court for petitioner's own state (Illinois) recently stated in *U. S. ex rel Montgomery* v. *Ragen,* 86 F. Supp. 382 (1949):

> "Due process, in short, means fair play. Due process of law is that process of impartial law which is binding because it is right. It senses the mistakes of the past and wants to rectify them. It provides men with faith * * *"

The state court of Illinois has also used and quoted with favor this broad concept of due process in *People* v. *Dugan,* 401 Ill. 442, 82 N. E. 2d 482 (1948), when it applied this Court's definition as given in *Foster* v. *Illinois* (*supra*).

III. The Oral Examination Given Petitioner in 1948 for the Position of Principal in the City of Chicago School System was not in Conformity with the Statute Providing for Promotion for Merit Only, and Consequently was a Denial to the Petitioner of the Due Process of the Law with Respect to Her Property Right in the Teaching Profession.

A. Examination Given was Competitive in its Nature.

The Illinois school statute (Appendix A) provides that the Board of Examiners hold examinations for promotions for teachers. Such promotions to be made on the basis of merit only. The word "merit" used in conjunction with the word "examinations" implies that those persons who do best on the examinations will be either appointed or promoted, as the case may be. In other words, there need, in fact, be competition among the various candidates,—that is, the examination must be competitive in the ordinary sense; otherwise as used in the Illinois statute both "merit" and "examinations" lose their force and meaning.

Further support is lent to the allegation that it was intended that the examination be competitive by the fact that successful candidates were placed on the eligible list in the order of their final grades, and appointments made in that order. (Abstract of Records, p. 5).

In *Almassy* v. *Los Angeles County Civil Service Commission,* 210 P. 2d 503 (Calif.) (1949), the court there described the competitive examination:

> "In a competitive examination, the candidates match their qualifications each against the others, and the final determination is made by rating and comparison. It is open to all who are eligible. In

contrast, a non-competitive examination is one in which the examining authority selects at pleasure such candidates as he may choose and subjects them to examination as he deems necessary."

Petitioner's situation under the Illinois statute fully conforms to the California court's definition of a competitive examnation.

B. In a Competitive Examination it is Incumbent Upon the Examining Officials to Adopt Objective Standards. This was not Done in the Oral Part of Petitioner's Examination.

In contrast to the written part of the examination, which was machine graded, the oral examination of the petitioner was capricious and non-objective. The interview lasted 20-30 minutes during which seven questions were asked (Appendix B), none of them having any relation to the enumerated factors set forth in the notice of oral examination which petitioner had received. (Abstract of Records, p. 23).

The courts, particularly in the state of New York, have conscientiously exercised their right of judicial review in order to make certain that the spirit and the letter of the state statutes requiring promotions for public servants on the basis of merit are not violated. Although the courts are not unfavorably disposed toward oral examinations, they have consistently required that these examinations be as objective as possible. A landmark case is *Fink* v. *Finegan*, 270 N. Y. 356, 1 N. E. 2d 462 (1936), where the applicant failed the oral part of the examination because he lacked "force and executive ability." The New York Court of Appeals found these qualities too subjective to be made part of the oral examination for a police surgeon, particularly since there was no notice to the applicant that

he would be tested as to these two qualities. The court stated:

> "A test or examination, to be competitive, must employ an objective standard or measure capable of being challenged or reviewed, when necessary, by other examiners of equal ability and experience. Where the standard or measure is wholly subjective to the examiners it differs in effect in no respect from an uncontrolled opinion of the examiners and cannot be termed competitive."

This decision, requiring objectivity for all types of competitive examinations, remains valid law in New York.

Where an examiner was at liberty to evaluate a candidate's record solely on the basis of his opinion and individual notions, the court held the examination standards were not sufficiently objective. *Cohen* v. *Fields,* 298 N. Y. 235 (1948).

Examiners cannot fail candidates capriciously; they must employ objective standards in testing "judgment," "clearness and quickness of comprehension" and "manner," according to the court in the case of *Bridgman et al.* v. *Kern,* 13 N. Y. S. 2d 249 (1939).

Nor can examiners arbitrarily give more weight to experience with one institution as against another, or to education at certain colleges as being preferable to others. *Sheridan* v. *Kern,* 255 App. Div. 57, 5 N. Y. S. 2d 336 (1938).

The courts in New York have, in addition, stated that allocating 60% to an oral examination designed to test the training, experience, and general qualifications, of lawyers wishing to be unemployment insurance referees, was unreasonable. (*Cowen et al* v. *Reavy et al,* 283 N. Y. 232, 28 N. E. 2d 390 (1940)).

In *Almassy* v. *Los Angeles County Civil Service Commission,* 210 P. 2d 503 (Calif.) (1949), the court held that the oral examination met the objective standards required because the examiners' ratings were such that they were able subsequently to be translated in accordance with a fixed formula or standard. In petitioner's case the only indication of any rating was the number placed in a book by the examiner. But there was no indication of what it represented—what factors the examiner was testing, if any. Petitioner is and has been unable to determine whether it was for the personality factors indicated on the notice of examination, for education research, leadership, or cooperation in the school system or for some other qualification (Abstract of Records, p. 23).

In *Blumenthal* v. *Morton,* 78 N. Y. S. 2d 302 (1948), the court found that the instructions to candidates form an integral part of the examination. This petitioner was instructed that she would be examined orally on 1) success as a teacher, 2) contributions to educational research, 3) record of leadership and cooperation in the school system, 4) community, 5) poise and 6) other personal factors. (Abstract of Records, p. 23). Where in the seven questions propounded to petitioner (Appendix B) was she questioned about the first four topics enumerated above? Nor do the questions indicate that even the latter two factors were being tested. The questions asked petitioner indicate, according to the *Blumenthal* case, a lack of examination rather than any examination according to objective standards.

C. A Written Record Capable of Being Reviewed, and Listing the Individual Qualifications Being Rated, with the Basis for Such Rating, is an Integral Part of a Competitive Examination and of the Merit System.

Members of the committee that orally examined petitioner took no notes during the interview, nor did they make any notations. No transcript or other record of any kind was taken. The only written record was the numerical grade given by each of the interviewers.

In both New York and California the courts have held that a record of some kind, capable of being reviewed, is essential to the employment of an objective standard and to the merit system.

For example, there may be an examination of personal elements **if a proper record is made of the oral test.** *Almassy* v. *Los Angeles County Civil Service Commission,* 210 P. 2d 503 (Calif.) (1949). Where a candidate's entire oral interview, designed to test speech, manner and judgment was recorded, and in addition the examiners kept a written record, the court found there was sufficient record to show either the presence or absence of an objective standard. *Gollin* v. *Watson,* 102 N. Y. S. 2d 935 (1951). Where a candidate failed an oral test which rated appearance, manner, speech and judgment, the court found that the applicant had a **right** to a review of the transcript. *Farrell* v. *Kern,* 17 N. Y. S. 2d 934 (1940).

It is clear that this petitioner has been denied, because of the lack of record, a basis for review of the objectivity and propriety of the oral examination, contrary to the requisites of any form of a "merit" system. The gravity of the injustice becomes apparent when it is realized that the oral examination which lasted 20-30 minutes counted for 50% of the petitioner's total grade.

D. The Board of Examiners did not Conduct the Oral Examination of the Petitioner as Prescribed by Statute, but Unlawfully Delegated Such Authority.

Section 34-86 (Ill. Rev. Stats. 1949, Chap. 122) provides in part:

> "The board of examiners shall hold such examinations as the board of education may prescribe, upon the recommendation of the superintendent of schools and shall prepare all necessary eligible lists, which shall be kept in the office of the superintendent of schools and be open to public inspection."

The rule is well-established that where a given power is expressly granted by statute to a public body or official, the exercise of that power cannot be delegated to others. (*City of Sullivan* v. *Cloe*, 277 Ill. 56 (1917)). In *People ex rel Gallas* v. *Krupicka*, 279 Ill. App. 269 (1935), the board of trustees of a town could not delegate to the president the power to appoint a commissioner of public works; the court stated that the trustees, having been given exclusive power to make appointments, must exercise that power.

In petitioner's case the statute imposes upon the Board of Examiners the power and the duty to conduct examinations. The court found in *People ex rel Cook* v. *Board of Education*, 295 Ill. App. 41 (1938), that the statute created the Board of Examiners to eliminate the spoils system, and that

> "As a means to that end the duty of examination and the power to apply tests of merit and fitness was taken away from the Board of Education and was placed in the Board of Examiners." (p. 57).

In *Beefer* v. *Borrella*, 9 N. J. Super. 287, 76 A. 2d 25 (1950), the court censured the civil service commission for not strictly adhering to its prescribed statutory power.

Only one member of the Board of Examiners was present in petitioner's case and he did not participate in examining the petitioner; to the remaining members of the group administering the oral examination an attempt had been made to delegate powers of examination, exclusive of any color of statutory authority.

The petitioner submits as Appendix "C" arguments in further pursuit of her contention that the cause she prays to be reviewed is one with broad social implications and consequences, affecting and conditioning the thinking of large groups of to-day's American citizens and of future American citizens.

Conclusion.

For the reasons set forth above, it is respectfully submitted that this petition for a writ of certiorari should be granted.

MARY S. M. LOUGHRY
Petitioner
162 West North Avenue
Chicago 10, Illinois

JANUARY 10th, 1952.

APPENDIX A.

Sections of the Constitution of the State of Illinois Relating to Due Process:

Article II—Bill of Rights

"Section 1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

Section 2. No person shall be deprived of life, liberty or property without due process of law."

Sections of Illinois Statute Relating to Examination and Appointment of School Principals:

"34-86. Board of examiners—Certificates—Examinations.] § 34-86. A board of three examiners shall examine all applicants required to hold certificates to teach and the board of education shall issue gratuitiously to those who pass a required test of character, scholarship and general fitness, such certificates to teach as they are found entitled to receive. The board of examiners shall consist of the superintendent of schools and two persons approved and appointed by the board of education upon the nomination of the superintendent. The board of examiners shall hold such examinations as the board of education may prescribe, upon the recommendation of the superintendent of schools and shall prepare all necessary eligible lists, which shall be kept in the office of the superintendent of schools and be open to public inspection. Members of the board of examiners shall hold office for a term of two years.

34-87. Appointments and Promotions.] § 34-87. Appointments and promotions of teachers, principals and other educational employees shall be made for merit only, and after satisfactory service for a probationary period of three years (during which period the board may dismiss or discharge any such probationary employee upon the recommendation, accompanied by the written reasons therefor, of the superintendent of schools) appointments of teachers and principals shall become permanent, subject to: (1) termination by compulsory retirement at the age of sixty-five years; (2) the rules of the board concerning conduct and efficiency; and (3) removal for cause in the manner provided by Section 34-88.

The probationary period of employment shall include the time of past service of all teachers and principals and other educational employees who are in the schools at the time, or who have been therein within five years immediately preceding the time, the Act of which Sections 34-86 and this section are a continuation went into effect.

When any teacher or principal who has been promoted to the position of assistant or district superintendent or a member of the board of examiners is relieved of the duties of such position, he shall be reinstated in the position from which he was promoted.

'Teachers and principals' as used in this article means all members of the teaching force except the superintendent of schools, assistant and district superintendents and members of the board of examiners."

—Chapter 122, Ill. Rev. Stats. (Bar Edition 1947)

APPENDIX B.

The non-written part of the examination given to relator on February 23, 1948 consisted of seven questions orally asked of the relator as follows:

"Mr. Ritzma: What would you show in a school, if you were assigned, at the end of five years?

Mr. Davidson: What would you do with a child who constantly was dishonest? thieving? With a boy who was constantly stealing and who cheated?

Mr. Olson: Assume that you have two 6th grade teachers of arithmetic in your school—one who is successful and one who is not. What would you do in such a situation?

Miss Shea: What would you do with an uncooperative teacher?

Mr. Carlin: What is your relationship as principal to the district superintendent?

Mr. Ritzma: Regarding that physical education work of yours—what value other than health value would you hope to gain from it?

Mr. Ritzma: Is there anything you wish to say, Miss Loughry? If not, the interview is terminated."

Abstract of Records, p. 8

APPENDIX C.

In these United States of America education has evolved as a basic part of our dearly-bought cultural American heritage of democracy and freedom. It is, therefore, a function of education to foster and perpetuate ideals of our democratic way of life. Among spokesmen to whom is entrusted the art of fostering and perpetuating these ideals are school teachers and school principals. They are among the chief agents in this educative process. These agents can hardly be

expected to foster genuine love for honest democracy and for honest freedom, unmixed with indignation if in the very examinations which they must take for professional certification they are subjected to utterly uncontrolled, tyranical abuse of so-called oral interviews (and/or oral examinations), the new, mid-Twentieth Century despotism, the lineal descendant of that long line of inhuman, iniquitous tribunals, which have, throughout time, assumed such various forms as the sphinx, the Delphic Oracle, lettres de cachet, inquisition, star-chamber, witchcraft, divination, fortune-telling, clairvoyance, and arrogation to self of omniscience, the mental counterparts of well-known physical tortures used in the criminal field.

Even now as petitioner is writing these words, on the second day of January, 1952 there comes to her ears, over radio station WMAQ's 5 P. M. Newscast, the report (not as yet identified by name) that to-day the Supreme Court of the United States, adjudicating in the field of criminal law, in an opinion written by Mister Justice Black, reversed a lower court decision on the ground that the physical means used to obtain the evidence in the case were reminiscent of the rack and the thumb-screw. Mister Justice Black had decried their use in an earlier opinion, *Chambers* v. *Florida,* 309 U. S. 227 (1940). Radio newscasters are in a position to feel the public pulse; they know that their vast audience is interested in the elimination of unjust, inquisitorial physical practices in the criminal field. It would, therefore, seem safe to reason that these same newscasters would feel that their vast audience would be similarly interested in elimination of equally unjust, inquisitorial practices which occur in the arbitrary, capricious, and unreasonable abuse of oral examinations or interviews. The uncontrolled oral interview makes educational bankrupts of some individuals who by virtue of hard study and application have advanced into that small per cent of our population which has at least 4 years of college work.

As the trial judge subtly pointed out at page 58 in the Abstract of Records in petitioner's case there is a dangerous factor in the abuse of oral interviews which might lead to something even worse than caprice. This factor in the abuse of oral interviews takes on deep significance in these times of struggle between divergent ideologies in view of the fact that only 27 of our 48 sovereign states demand American citizenship of their teachers, according to **A Manual On Certification Requirements for School Personnel in the United States,** p. 5, Table II, Federal Security Agency Office of Education Circular 290 (1951). The uncontrolled oral interview may shield undetected encroachment among us of subversive individuals who, boring from within our free institute of education would destroy our democratic system with its respect for the worth of the individual and our free enterprise system. "Truly" said Mister Justice Frankfurter at page 166 in **The Public and Its Government,** Felix Frankfurter—New Haven—Yale University Press—quoting Huxley at pages 124-126—**American Addresses** "America has a great future before her * * * but the one condition of success, your sole safeguard, is the moral worth and intellectual clearness of the individual citizen."

Thus the abuse of discretion in oral examinations is a matter of broad import, and as Mister Justice Douglas has pointed out in another area, viz., corporations, grave danger of self perpetuation in office lies in the possibility of interlocking directorates. "Directors Who Do Not Direct"—Wm. O. Douglas—*Harvard Law Review,* XLVII No. 8 (June 1934). Examiners who do not examine can be as great a detriment to large numbers of candidates for professional certificates as directors who do not direct can be to stockholders, and when a given examination is not